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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,402	09/29/2003	Helmut Grollitsch	1523-5	9151

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EXAMINER
MILLER, JONATHAN R

ART UNIT	PAPER NUMBER
3653	

DATE MAILED: 07/07/2006

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/672,402	GROLLITSCH ET AL.	
	Examiner	Art Unit	
	Jonathan R. Miller	3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8 and 10-20* is/are rejected.

7)☒ Claim(s) *9 and 21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20040225*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 11-20 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0043170. The reference discloses a frame; a conveyor means (18) mounted on said frame, said conveyor means for moving the case along said frame; and a first ram means (20) affixed to said frame, said first ram means for applying a force onto a surface of a wall of the case (page 2, lines 9+).

3. With regards to claim 2, the reference further discloses a sensor (21) means cooperative with said first ram means, said sensor means for detecting when the surface of the wall of the case has deflected beyond a desired amount (page 2, lines 9+).

4. With regards to claim 3, the reference further discloses ejection means affixed to said frame and cooperative with said conveyor means for ejecting the case from said conveyor means when the wall of the case has deflected beyond the desired amount (page 2, lines 9+).

5. With regards to claim 4, the reference further discloses a second ram means affixed to said frame and positioned in a different location on said frame from said first ram means, said second ram means for applying a force onto another surface of the case (Fig. 4).

6. With regards to claim 5, the reference further discloses a pneumatic ram (30) having a cylinder (28) affixed to said frame, said pneumatic ram having a piston extending outwardly

therefrom; and an arm (25) pivotally connected to said piston and pivotally connected to said frame (Fig. 4).

7. With regards to claim 6, the reference further discloses said piston being movable between a first position and a second position relative to said cylinder, said first position causing said arm to be positioned away from the wall of the case, said second position urging the wall of the case outwardly (Fig. 4; page 5, lines 31+).

8. With regards to claim 7, the reference further discloses a sensor means connected to said cylinder and cooperative with said piston, said sensor means for determining when said second position is beyond a desired limit of movement (page 6, lines 15+).

9. With regards to claim 8, the reference further discloses said second ram means comprising: a pneumatic ram having a cylinder affixed to said frame and a piston extending outwardly of said cylinder, said piston being movable between a first position and a second position relative to said cylinder, said first position positioning said piston away from said another surface of the case, said second position urging against said another surface of the case (page 6, lines 12+).

10. With regards to claim 11, the reference further discloses a positioning means (17) affixed to said frame, said positioning means for fixing a position of the case relative to said frame.

11. With regards to claim 12, the reference further discloses a separating means (5, 1) affixed to said frame in spaced relation to said positioning means, said separating means for spacing another case from the case on the conveyor means when said positioning means fixed the position of the case.

12. With regards to claim 13, the reference further discloses fixing a position of the case, the case having an open side and a closed side with a plurality of walls extending therebetween; applying a force against one of the plurality of walls such that the wall deflects; and determining whether the deflection of the wall is beyond a desired amount (page 2, lines 9+).

13. With regards to claim 14, the reference further discloses said step of applying the force comprising: positioning a surface of a ram against the wall of the case; and actuating said ram such that said surface of said ram urges against the wall of the case (page 2, lines 9+).

14. With regards to claim 15, the reference further discloses said step of determining comprising: sensing an amount of movement of said surface of said ram (page 6, lines 15+).

15. With regards to claim 16, the reference further discloses said ram having a pneumatic cylinder mounted in a fixed position, said ram having a piston extending outwardly of said cylinder; said ram having an arm pivotally connected to, said piston, said step of actuating the ram comprising: retracting said piston within said cylinder such that said arm pivots outwardly, said arm having said surface thereon urging against said wall (Fig. 4; page 5, lines 31+).

16. With regards to claim 17, the reference further discloses forming a frame having a conveyor (1) thereon; and conveying the case along the frame prior to said step of fixing the position of the case.

17. With regards to claim 18, the reference further discloses said step of fixing the position comprising: actuating a pneumatic ram such that a piston of the ram extends through said open side and abuts one of said plurality of walls so as to stop a movement of the case relative to said conveyor (Fig. 4). Examiner contends that the process of Fig. 4 fixes the position of the crate as well as performing the test.

18. With regards to claim 19, the reference further discloses ejecting the case when the deflection of the wall is beyond the desired amount (page 2, lines 9+).

19. With regards to claim 20, the reference further discloses applying another force against said closed side of said case, such that said closed side deflects; and determining whether the deflection of said closed side is beyond a predetermined limit (page 6, lines 12+). Examiner contends that a side wall is a closed side.

20. Claims 1-4, 8,10-15 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2,052,765A. The reference discloses a frame; a conveyor means (2) mounted on said frame, said conveyor means for moving the case along said frame; and a first ram means (20) affixed to said frame, said first ram means for applying a force onto a surface of a wall of the case (Fig. 1).

21. With regards to claim 2, the reference further discloses a sensor means cooperative with said first ram means, said sensor means for detecting when the surface of the wall of the case has deflected beyond a desired amount (page 2, lines 103+).

22. With regards to claim 3, the reference further discloses ejection means affixed to said frame and cooperative with said conveyor means for ejecting the case from said conveyor means when the wall of the case has deflected beyond the desired amount (page 2, lines 117+).

23. With regards to claim 4, the reference further discloses a second ram means (20) affixed to said frame and positioned in a different location on said frame from said first ram means, said second ram means for applying a force onto another surface of the case (Fig. 1; page 2, lines 103+).

24. With regards to claim 8, the reference further discloses said second ram means comprising: a pneumatic ram having a cylinder affixed to said frame and a piston extending outwardly of said cylinder, said piston being movable between a first position and a second position relative to said cylinder, said first position positioning said piston away from said another surface of the case, said second position urging against said another surface of the case (Fig. 1; page 2, lines 103+).

25. With regards to claim 10, the reference further discloses said ejection means comprising: a pneumatic ram (27) having a cylinder affixed to said frame, said pneumatic ram having a piston extending outwardly therefrom, said piston being movable between a first position and a second position relative to said cylinder, said first position causing said piston to be positioned away from the case, said second position urging against the case so as to separate the case from said conveyor means (page 2, lines 117+).

26. With regards to claim 11, the reference further discloses a positioning means (11) affixed to said frame, said positioning means for fixing a position of the case relative to said frame (page 2, lines 85+).

27. With regards to claim 12, the reference further discloses a separating means affixed to said frame in spaced relation to said positioning means, said separating means for spacing another case from the case on the conveyor means when said positioning means fixed the position of the case (Fig. 1).

28. With regards to claim 13, the reference further discloses fixing a position of the case, the case having an open side and a closed side with a plurality of walls extending therebetween;

applying a force against one of the plurality of walls such that the wall deflects; and determining whether the deflection of the wall is beyond a desired amount (Fig. 1; page 2, lines 103+).

29. With regards to claim 14, the reference further discloses said step of applying the force comprising: positioning a surface of a ram against the wall of the case; and actuating said ram such that said surface of said ram urges against the wall of the case (Fig. 1; page 2, lines 103+).

30. With regards to claim 15, the reference further discloses said step of determining comprising: sensing an amount of movement of said surface of said ram (Fig. 1; page 2, lines 103+).

31. With regards to claim 17, the reference further discloses forming a frame having a conveyor (2) thereon; and conveying the case along the frame prior to said step of fixing the position of the case (Fig. 1; page 2, lines 77+).

32. With regards to claim 18, the reference further discloses said step of fixing the position comprising: actuating a pneumatic ram (11, 28) such that a piston of the ram extends through said open side and abuts one of said plurality of walls so as to stop a movement of the case relative to said conveyor (Fig. 1; page 2, lines 77+).

33. With regards to claim 19, the reference further discloses ejecting the case when the deflection of the wall is beyond the desired amount (page 2, lines 117+).

34. With regards to claim 20, the reference further discloses applying another force against said closed side of said case, such that said closed side deflects; and determining whether the deflection of said closed side is beyond a predetermined limit (page 2, lines 117+).

35. Claims 1, 4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Shirakura at al. The reference discloses a frame; a conveyor means (9) mounted on said frame, said

conveyor means for moving the case along said frame; and a first ram means (2) affixed to said frame, said first ram means for applying a force onto a surface of a wall of the case (Fig. 1).

36. With regards to claim 4, the reference further discloses a second ram means (22) affixed to said frame and positioned in a different location on said frame from said first ram means, said second ram means for applying a force onto another surface of the case (Fig. 1).

37. With regards to claim 11, the reference further discloses a positioning means (12) affixed to said frame, said positioning means for fixing a position of the case relative to said frame.

Allowable Subject Matter

38. Claims 9 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

39. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose or render obvious, with regards to claim 9, said piston having a roller rotatably positioned at an end of the said piston opposite said cylinder; and with regards to claim 21, placing the case on said conveyor such that said open side faces said conveyor.

Conclusion

40. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (571) 272-6940. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy A. Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jrm

Kathy Matecki

KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Section 9. Concise Explanation of English Language List Information Items (OPTIONAL)

NOTE: "Applicants may, if they wish, provide a concise explanation of why English-language information is being submitted and how it is understood to be relevant. Concise explanations are helpful to the Office, particularly where documents are lengthy and complex and applicant is aware of a section that is highly relevant to patentability or where a large number of documents are submitted and applicant is aware that one or more are highly relevant to patentability." Notice of April 20, 1992 (1138 O.G. 37-41, 38).

U.S. Patent No. 6,474,141, issued on November 5, 2002 to Takaoka et al., describes a seal inspection machine for inspecting bagged products to determine the presence or absence of a seal abnormality being transported along a conveyor belt.

U.S. Patent No. 6,473,169, issued on October 29, 2002 to Dawley et al., teaches a leak and vision inspection system that inspects a bottle or other container for manufacturing defects. The system provides a series of visual inspection stations with cameras and lighting that are integrated onto a rotary inspection system for on-line inspection of containers. A microprocessor in data communication with each of the inspection stations receives and analyzes image data of the particular area or parameter of the container being inspected or tested, and generates data relating to the container based upon predetermined criteria.

U.S. Patent No. 6,237,431, issued on May 29, 2001 to Franke, discloses an apparatus for testing non-rotationally symmetrical hollow bodies for defects includes a conveyor for continuously conveying the hollow body through a test region past a detector for producing measurement values characterizing the nature of the respective hollow bodies being tested, in dependence on the angle of rotation of the hollow body. An evaluator device compares the measurement values to predetermined values to decide whether the respective hollow body being tested suffers from defects.

U.S. Patent No. 6,088,995, issued on July 18, 2000 to Robinson et al., teaches another type of carton inspection and ejection system along a conveyor belt. The system is utilized to determine whether the carton has assumed a predetermined configuration at a predetermined

point along the path of travel. Rollers are provided which are actuated to eject a carton when the detection elements determine that the carton element has not assumed the predetermined configuration.

U.S. Patent No. 4,984,409, issued on January 15, 1991 to H. Focke, describes a process and apparatus for the testing of carton packs, such as those made of corrugated cardboard. The device applies pressure onto one of the adhesively connected walls, such as the bottom wall and the cover wall. The device is used so as to detect inadequate connections between the walls through the springing open of the respective walls. The change of shape in the carton pack is detected by sensors, such as photosensors. Any faulty packs are separated out of the feedstream, put in order, and reintroduced into the stream. Pressure is applied solely to the top of the carton pack so as to determine whether the carton pack will withstand the application of pressure thereto.

U.S. Patent No. 4,530,246, issued on July 23, 1985 to Pitman et al., presents an aapparatus for automatically inspecting brittle articles such as containers of glass and the like has element which applies a force to each article in turn, so as to propagate any cracks in the glass.

U.S. Patent No. 3,955,408, issued on May 11, 1976 to Northup, discloses a fluidless bottle testing method and apparatus. After being subjected to a squeeze test for side wall strength, bottles are moved to a bottle bottom tester which places the outer surfaces of the bottom and of the lower side wall of the bottle into tension. Bottles which would fail in service due to thin or weak walls, checks and scratches fail during the test and are thus removed prior to filling.